

MONTANA LEGISLATIVE HISTORY

Chapter 576 19 2001

Bill H 144 S _____ Original bill & history ✓ c

H. Committee on Judiciary

Hearing Date(s) 1/18/01 ✓ c

1/22/01 ✓ c

H. Committee on Approp.

2/2/01 ✓ c

Date Out 2/7/01 ✓ c

S. Committee on Judiciary

Hearing Date(s) 3/14/01 ✓ c

3/27/01 ✓ c

_____ c

_____ c

Free Conference Committee
4/18/01

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

	Transmitted to Senate		
3/01	Referred to Judiciary		
3/14	Hearing		
3/27	Committee Executive Action--Bill Concurred as Amended	6	0
3/27	Committee Report--Bill Concurred as Amended		
3/28	Revised Fiscal Note Requested		
3/30	2nd Reading Concurred	28	19
3/31	3rd Reading Concurred	37	12
	Returned to House with Amendments		
4/05	Revised Fiscal Note Received		
4/05	2nd Reading Senate Amendments Not Concurred	90	9
4/05	Conference Committee Appointed		
4/07	Conference Committee Appointed		
4/07	Revised Fiscal Note Printed		
4/10	Conference Committee Dissolved		
4/10	Free Conference Committee Appointed		
4/10	Conference Committee Dissolved		
4/10	Free Conference Committee Appointed		
4/19	Free Conference Committee Report Received		
4/19	Free Conference Committee Report Received		
4/19	2nd Reading Free Conference Committee Report Adopted	96	2
4/20	3rd Reading Free Conference Committee Report Adopted	91	8
4/20	Revised Fiscal Note Printed		
4/20	2nd Reading Free Conference Committee Report Adopted on Voice Vote	48	0
4/21	3rd Reading Free Conference Committee Report Adopted	47	0
4/21	Sent to Enrolling		
4/25	Returned from Enrolling		
4/26	Signed by Speaker		
4/26	Signed by President		
4/26	Transmitted to Governor		
5/05	Signed by Governor		
5/05	Chapter Number Assigned		
	Chapter Number 576		
	Effective Date: 7/01/2001 - All Sections		

HB 147 Introduced by Dale

LC0273 Drafter: Mitchell

Require EIS Completion Within 1 Year of Mining Permit Acceptance

By Request of Department of Environmental Quality

12/22	Introduced		
12/28	Referred to Natural Resources		
1/19	Hearing		
1/26	Committee Executive Action--Bill Passed as Amended	17	3
1/29	Committee Report--Bill Passed as Amended		
2/01	2nd Reading Passed	98	0
2/02	3rd Reading Passed	99	0
	Transmitted to Senate		
2/05	Referred to Natural Resources		
3/02	Hearing		
3/06	Committee Executive Action--Bill Concurred	7	0
3/06	Committee Report--Bill Concurred		
3/07	2nd Reading Concurred on Voice Vote	50	0
3/08	3rd Reading Concurred	48	1
	Returned to House		
3/09	Sent to Enrolling		
3/09	Returned from Enrolling		
3/09	Signed by Speaker		

4/23 Transmitted to Governor
 5/02 Signed by Governor
 5/03 Chapter Number Assigned
 Chapter Number 557
 Effective Date: 7/01/2001 - All Sections

HB 145 Introduced by Dale

LC0243 Drafter: B. Campbell

Revise State Building Code

By Request of Department of Commerce

12/22	Introduced		
12/28	Referred to Business and Labor		
1/15	Hearing		
1/17	Committee Executive Action--Bill Passed as Amended	19	0
1/17	Committee Report--Bill Passed as Amended		
1/19	2nd Reading Passed	92	7
1/20	3rd Reading Passed	96	4
	Transmitted to Senate		
1/22	Referred to Business and Labor		
2/09	Hearing		
2/09	Committee Executive Action--Bill Concurred	9	0
2/09	Committee Report--Bill Concurred		
3/01	2nd Reading Concurred on Voice Vote	48	0
3/02	3rd Reading Concurred	49	0
	Returned to House		
3/03	Sent to Enrolling		
3/05	Returned from Enrolling		
3/06	Signed by Speaker		
3/07	Signed by President		
3/07	Transmitted to Governor		
3/16	Signed by Governor		
3/16	Chapter Number Assigned		
	Chapter Number 47		
	Effective Date: 3/16/2001 - All Sections		

HB 146 Introduced by Shockley

LC0263 Drafter: MacMaster

Revise Youth Court Act Relating to Detention and Placement of Youth

By Request of Department of Corrections

10/04	Fiscal Note Needed		
12/22	Introduced		
12/28	Referred to Judiciary		
1/18	Hearing		
1/22	Committee Executive Action--Bill Passed as Amended	11	8
1/22	Committee Report--Bill Passed as Amended		
1/25	2nd Reading Not Passed	49	50
1/25	Segregated from Committee of the Whole Report	76	23
1/25	Taken from 2nd Reading; Rereferred to Appropriations	100	0
2/02	Hearing		
2/07	Fiscal Note Requested		
2/07	Committee Executive Action--Bill Passed as Amended	13	5
2/07	Committee Report--Bill Passed as Amended		
2/12	Fiscal Note Received		
2/16	Fiscal Note Printed		
2/21	2nd Reading Passed as Amended	65	33
2/23	3rd Reading Passed	59	39

HOUSE BILL NO. 146

INTRODUCED BY J. SHOCKLEY

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE YOUTH COURT ACT TO GENERALLY REVISE LAWS RELATING TO THE DETENTION AND PLACEMENT OF YOUTH; CHANGING THE MEMBERSHIP OF YOUTH PLACEMENT COMMITTEES; CREATING AN INTERVENTION PROGRAM FOR JUVENILE DELINQUENTS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 41-5-103, 41-5-121, 41-5-122, 41-5-123, 41-5-124, 41-5-203, 41-5-205, 41-5-206, 41-5-1512, 41-5-1513, 52-5-109, AND 52-5-129, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-31-702; 15-34-115; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; [Section 16]; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-505;

1 80-2-222; 80-4-416; 80-11-518; 81-5-111; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.
2 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
3 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
4 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
5 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
6 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
7 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to
8 sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
9 supplemental benefit; pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1,
10 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of
11 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability
12 is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1,
13 2014; and pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710
14 terminates June 30, 2005.)"

15

16 **Section 2.** Section 41-5-103, MCA, is amended to read:

17 **"41-5-103. Definitions.** As used in the Montana Youth Court Act, unless the context requires
18 otherwise, the following definitions apply:

19 (1) "Adult" means an individual who is 18 years of age or older.

20 (2) "Agency" means any entity of state or local government authorized by law to be responsible
21 for the care or rehabilitation of youth.

22 (3) "Assessment officer" means a person who is authorized by the court to provide initial intake
23 and evaluation for a youth who appears to be in need of intervention or an alleged delinquent youth.

24 (4) "Commit" means to transfer to legal custody of a youth to the department or to the youth
25 court.

26 (5) "Correctional facility" means a public or private residential facility used for the placement of
27 delinquent youth or individuals convicted of criminal offenses.

28 (6) "Court", when used without further qualification, means the youth court of the district court.

29 (7) "Criminally convicted youth" means a youth who has been convicted in a district court
30 pursuant to 41-5-206.

(8) "Custodian" means a person, other than a parent or guardian, to whom legal custody of the youth has been given but does not include a person who has only physical custody.

(9) "Delinquent youth" means a youth who is adjudicated under formal proceedings under the Montana Youth Court Act as a youth:

(a) who has committed an offense that, if committed by an adult, would constitute a criminal offense; or

(b) who has been placed on probation as a delinquent youth or a youth in need of intervention and who has violated any condition of probation.

(10) "Department" means the department of corrections provided for in 2-15-2301.

(11) "Department records" means information or data, either in written or electronic form, maintained by the department pertaining to youth who are committed ~~to the department~~ under 41-5-1512(3) or 41-5-1513(1)(b) or (1)(c) or who are under parole supervision. Department records do not include information provided by the department to the department of public health and human services' management information system.

(12) "Detention" means the holding or temporary placement of a youth in the youth's home under home arrest or in a facility other than the youth's own home for:

(a) the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody and before final disposition of the youth's case;

(b) contempt of court or violation of a valid court order; or

(c) violation of a youth parole agreement.

(13) "Detention facility" means a physically restricting facility designed to prevent a youth from departing at will. The term includes a youth detention facility, short-term detention center, and regional detention facility.

(14) "Emergency placement" means placement of a youth in a youth care facility for less than 45 days to protect the youth when there is no alternative placement available.

~~(14)~~(15) "Family" means the parents, guardians, legal custodians, and siblings or other youth with whom a youth ordinarily lives.

~~(15)~~(16) "Final disposition" means the implementation of a court order for the disposition or placement of a youth as provided in 41-5-1422, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, and 41-5-1522 through 41-5-1525.

1 ~~(16)~~(17) "Foster home" means a private residence licensed by the department of public health and
2 human services for placement of a youth.

3 ~~(17)~~(18) "Guardian" means an adult:

4 (a) who is responsible for a youth and has the reciprocal rights, duties, and responsibilities with
5 the youth; and

6 (b) whose status is created and defined by law.

7 ~~(18)~~(19) "Habitual truancy" means recorded absences of 10 days or more of unexcused absences
8 in a semester or absences without prior written approval of a parent or a guardian.

9 ~~(19)~~(20) "Holdover" means a room, office, building, or other place approved by the board of crime
10 control for the temporary detention and supervision of youth in a physically unrestricting setting for a
11 period not to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer
12 to an appropriate detention or shelter care facility. The term does not include a jail.

13 ~~(20)~~(21) "Jail" means a facility used for the confinement of adults accused or convicted of criminal
14 offenses. The term includes a lockup or other facility used primarily for the temporary confinement of
15 adults after arrest but does not include a collocated juvenile detention facility that complies with 28 CFR,
16 part 31.

17 ~~(21)~~(22) "Judge", when used without further qualification, means the judge of the youth court.

18 ~~(22)~~(23) "Juvenile home arrest officer" means a court-appointed officer administering or
19 supervising juveniles in a program for home arrest, as provided for in Title 46, chapter 18, part 10.

20 ~~(23)~~(24) "Law enforcement records" means information or data, either in written or electronic
21 form, maintained by a law enforcement agency, as defined in 7-32-201, pertaining to a youth covered by
22 this chapter.

23 ~~(24)~~(25) (a) "Legal custody" means the legal status created by order of a court of competent
24 jurisdiction that gives a person the right and duty to:

25 (i) have physical custody of the youth;

26 (ii) determine with whom the youth shall live and for what period;

27 (iii) protect, train, and discipline the youth; and

28 (iv) provide the youth with food, shelter, education, and ordinary medical care.

29 (b) An individual granted legal custody of a youth shall personally exercise the individual's rights
30 and duties as guardian unless otherwise authorized by the court entering the order.

~~(25)~~(26) "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or spouse.

~~(26)~~(27) "Parent" means the natural or adoptive parent but does not include a person whose parental rights have been judicially terminated, nor does it include the putative father of an illegitimate youth unless the putative father's paternity is established by an adjudication or by other clear and convincing proof.

~~(27)~~(28) "Probable cause hearing" means the hearing provided for in 41-5-332.

~~(28)~~(29) "Regional detention facility" means a youth detention facility established and maintained by two or more counties, as authorized in 41-5-1804.

~~(29)~~(30) "Restitution" means payments in cash to the victim or with services to the victim or the general community when these payments are made pursuant to a consent adjustment, consent decree, or other youth court order.

~~(30)~~(31) "Running away from home" means that a youth has been reported to have run away from home without the consent of a parent or guardian or a custodian having legal custody of the youth.

~~(31)~~(32) "Secure detention facility" means a public or private facility that:

(a) is used for the temporary placement of youth or individuals accused or convicted of criminal offenses or as a sanction for contempt of court, violation of a parole agreement, or violation of a valid court order; and

(b) is designed to physically restrict the movements and activities of youth or other individuals held in lawful custody of the facility.

~~(32)~~(33) "Serious juvenile offender" means a youth who has committed an offense that would be considered a felony offense if committed by an adult and that is an offense against a person, an offense against property, or an offense involving dangerous drugs.

~~(33)~~(34) "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

~~(34)~~(35) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to the facilities enumerated in ~~41-5-344~~ 41-5-347.

~~(35)~~(36) "Short-term detention center" means a detention facility licensed by the department for the temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and legal holidays, pending a probable cause hearing, release, or transfer of the youth to an appropriate

1 detention facility, youth assessment center, or shelter care facility.

2 ~~(36)~~(37) "State youth correctional facility" means a residential facility used for the placement and
3 ~~rehabilitation of delinquent youth, such as~~ the Pine Hills youth correctional facility in Miles City or the
4 Riverside youth correctional facility in Boulder.

5 ~~(37)~~(38) "Substitute care" means full-time care of youth in a residential setting for the purpose of
6 providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who
7 are removed from or are without the care and supervision of their parents or guardians.

8 ~~(38)~~(39) "Victim" means:

9 (a) a person who suffers property, physical, or emotional injury as a result of an offense
10 committed by a youth that would be a criminal offense if committed by an adult;

11 (b) an adult relative of the victim, as defined in subsection ~~(38)(a)~~ (39)(a), if the victim is a minor;
12 and

13 (c) an adult relative of a homicide victim.

14 ~~(39)~~(40) "Youth" means an individual who is less than 18 years of age without regard to sex or
15 emancipation.

16 ~~(40)~~(41) "Youth assessment" means a multidisciplinary assessment of a youth as provided in
17 41-5-1201.

18 ~~(41)~~(42) "Youth assessment center" means a staff-secured location that is licensed by the
19 department of public health and human services to hold a youth for up to 10 days for the purpose of
20 providing an immediate and comprehensive community-based youth assessment to assist the youth and
21 the youth's family in addressing the youth's behavior.

22 ~~(42)~~(43) "Youth care facility" has the meaning provided in 41-3-1102.

23 ~~(43)~~(44) "Youth court" means the court established pursuant to this chapter to hear all proceedings
24 in which a youth is alleged to be a delinquent youth, a youth in need of intervention, or a youth in need
25 of care and includes the youth court judge, probation officers, and assessment officers.

26 ~~(44)~~(45) "Youth court records" means information or data, either in written or electronic form
27 maintained by the youth court pertaining to a youth under jurisdiction of the youth court and includes
28 reports of preliminary inquiries, petitions, motions, other filed pleadings, court findings, verdicts, orders
29 and decrees, youth assessment materials, predispositional studies, and supervision records of probationers.
30 Youth court records do not include information provided by the youth court to the department of public

1 health and human services' management information system.

2 ~~(45)~~(46) "Youth detention facility" means a secure detention facility licensed by the department
3 for the temporary substitute care of youth that is:

4 (a) (i) operated, administered, and staffed separately and independently of a jail; or

5 (ii) a collocated secure detention facility that complies with 28 CFR, part 31; and

6 (b) used exclusively for the lawful detention of alleged or adjudicated delinquent youth or as a
7 sanction for contempt of court, violation of a parole agreement, or violation of a valid court order.

8 ~~(46)~~(47) "Youth in need of care" has the meaning provided for in 41-3-102.

9 ~~(47)~~(48) "Youth in need of intervention" means a youth who is adjudicated as a youth and who
10 commits an offense prohibited by law that if committed by an adult would not constitute a criminal
11 offense, including but not limited to a youth who:

12 (a) violates any Montana municipal or state law regarding alcoholic beverages;

13 (b) continues to exhibit behavior, including running away from home or habitual truancy, beyond
14 the control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of
15 the youth's parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to
16 mediate, resolve, or control the youth's behavior; or

17 (c) has committed any of the acts of a delinquent youth but whom the youth court, in its
18 discretion, chooses to regard as a youth in need of intervention."

19

20 **Section 3.** Section 41-5-121, MCA, is amended to read:

21 **"41-5-121. Youth placement committees -- composition.** (1) In each judicial district, the
22 ~~department youth court~~ shall establish a youth placement committee for the purposes of:

23 (a) recommending an appropriate placement of a youth referred to the youth court or the
24 department under 41-5-1512 and 41-5-1513; or

25 (b) recommending available community services or alternative placements whenever a change is
26 required in the placement of a youth who is currently in the custody of the department under 41-5-1512
27 or 41-5-1513. However, the committee may not substitute its judgment for that of the superintendent of
28 a state youth correctional facility regarding the discharge of a youth from the facility.

29 (2) (a) The committee consists of not less than five members and must include persons who are
30 knowledgeable about the youth, treatment and placement options, and other resources appropriate to

1 address the needs of the youth.

2 ~~(b) Members may.~~ The committee must include:

3 ~~(a)(i) two representatives of a juvenile parole officer employed by the department;~~

4 ~~(b)(ii) a representative of the department of public health and human services;~~

5 ~~(c)(iii) either the chief probation officer or the youth's probation officer or the chief probation~~
6 ~~officer's designee, who is the presiding officer of the committee;~~

7 ~~(d)(iv) a mental health professional; and~~

8 ~~(v) if an Indian youth is involved, a person, preferably an Indian, knowledgeable about Indian~~
9 ~~culture and Indian family matters.~~

10 ~~(e)(c)~~ The committee may include:

11 (i) a representative of a school district located within the boundaries of the judicial district who
12 ~~must have personal~~ has knowledge of and experience with the youth;

13 ~~(f) if an Indian child or children are involved, someone, preferably an Indian person, knowledgeable~~
14 ~~about Indian culture and family matters;~~

15 ~~(g)(ii) a~~ the youth's parent or guardian; ~~and~~

16 ~~(h)(iii) a youth services provider; and~~

17 (iv) the youth's probation officer.

18 (3) Committee members serve without compensation.

19 (4) Notwithstanding the provisions of 41-5-123, the committee may be convened by the
20 department or the probation officer of the youth court.

21 (5) If a representative of the school district within the boundaries of which the youth is
22 recommended to be placed and will be attending school is not included on the committee, the person who
23 convened the committee shall inform the school district of the final placement decision for the youth.

24 (6) The department may not disburse funds from the budget allocation subaccounts established
25 pursuant to [section 16] unless the youth court has established a youth placement committee as provided
26 in this section."

27

28 **Section 4.** Section 41-5-122, MCA, is amended to read:

29 **"41-5-122. Duties of the youth placement committee.** A youth placement committee shall:

30 (1) review all information relevant to the placement of a youth ~~referred or committed to the~~

1 department;

2 (2) consider available resources appropriate to meet the needs of the youth;

3 (3) consider the treatment recommendations of any professional person who has evaluated the
4 youth;

5 (4) consider options for the financial support of the youth;

6 (5) recommend in writing to the youth court judge ~~department~~ an appropriate placement for the
7 youth, considering the age and treatment needs of the youth and the relative costs of care in facilities
8 considered appropriate for placement. A committee shall consider placement in a licensed facility, at a
9 state youth correctional facility, or with a parent, other family member, or guardian.

10 (6) review temporary and emergency placements as required under 41-5-124; and

11 (7) conduct placement reviews at least ~~semiannually~~ every 6 months and at other times as
12 requested by the youth court ~~department~~.

13
14 **Section 5.** Section 41-5-123, MCA, is amended to read:

15 **"41-5-123. Youth placement committee to submit recommendation to ~~department~~ youth court—acceptance**
16 **~~or rejection of recommendation by department~~ youth court.** (1) Prior to commitment of a youth to the
17 custody of the youth court probation office or the department pursuant to 41-5-1512 or 41-5-1513, a
18 youth placement committee must be convened. The committee shall submit in writing to the ~~department~~
19 ~~and to the youth court judge~~ its primary and alternative recommendations for placement of the youth.

20 (2) ~~If the department accepts either of the committee's recommendations, it shall promptly notify~~
21 ~~the committee in writing. The committee shall first consider placement of the youth in a community-based~~
22 ~~facility or program and shall give priority to placement of the youth in a facility or program located in the~~
23 ~~state of Montana.~~

24 (3) If in-state alternatives for placement of the youth are inappropriate, the committee may
25 recommend an out-of-state placement. The committee shall state in its recommendation the reasons why
26 in-state services are not appropriate.

27 (4) The primary and alternative recommendations of the youth placement committee must be for
28 similar facilities or programs. The youth court may require a youth placement committee to reevaluate a
29 youth if the recommended placements are dissimilar.

30 (3)(5) If the ~~department~~ youth court rejects both of the committee's recommendations, it shall

1 promptly notify the committee in writing of the reasons for rejecting the recommendations and shall make
2 an appropriate placement for the youth.

3 ~~(4)(6) Within 72 hours after making a decision on a placement or change of placement, the~~
4 ~~department shall notify the youth court of the decision and of the placement or change of placement. The~~
5 ~~youth court may not order a placement or change of placement that results in a deficit in the budget~~
6 ~~allocation from the department.~~

7 (7) The youth court shall evaluate the cost of the placement or change of placement and ensure
8 that the placement or change of placement will not overspend the budget allocation provided by the
9 department under [section 16].

10 (8) The department shall review and approve all youth placement committee recommendations
11 for out-of-state residential placements. The youth court may not commit or place a youth in any
12 out-of-state program or facility without the express written approval of the department."

13

14 **Section 6.** Section 41-5-124, MCA, is amended to read:

15 **"41-5-124. Temporary and emergency placements -- limit.** (1) A temporary placement of a youth
16 in a shelter care facility or an emergency placement of a youth in a youth care facility is exempt from the
17 requirements of 41-5-123.

18 (2) If a temporary or emergency placement of a youth continues for 45 or more days, the
19 department shall refer the placement of the youth to the appropriate youth placement committee for
20 review. The committee shall make a recommendation for placement to the ~~department~~ youth court in
21 accordance with 41-5-123."

22

23 **Section 7.** Section 41-5-203, MCA, is amended to read:

24 **"41-5-203. Jurisdiction of court.** (1) Except as provided in subsection (2) and for cases filed in
25 the district court under 41-5-206, the court has exclusive original jurisdiction of all proceedings under the
26 Montana Youth Court Act in which a youth is alleged to be a delinquent youth, a youth in need of
27 intervention, or a youth in need of care or concerning any person under 21 years of age charged with
28 having violated any law of the state or any ordinance of a city or town other than a traffic or fish and
29 game law prior to having become 18 years of age.

30 (2) ~~Justice~~ Justices, municipal, and city courts have concurrent jurisdiction with the youth court

1 over all alcoholic beverage, tobacco products, and gambling violations alleged to have been committed by
2 a youth.

3 (3) The court has jurisdiction to:

4 (a) transfer a youth court case to the district court after notice and hearing; ~~and~~

5 (b) with respect to extended jurisdiction juvenile cases:

6 (i) designate a proceeding as an extended jurisdiction juvenile prosecution;

7 (ii) conduct a hearing, receive admissions, and impose upon a youth who is adjudicated as an
8 extended jurisdiction juvenile a sentence that may extend beyond the youth's age of majority;

9 (iii) stay that portion of an extended jurisdiction sentence that is extended beyond a youth's
10 majority, subject to the performance of the juvenile portion of the sentence;

11 (iv) continue, modify, or revoke the stay after notice and hearing;

12 (v) after revocation, transfer execution of the stayed sentence to the department;

13 (vi) transfer supervision of any juvenile sentence if, after notice and hearing, the court determines
14 by a preponderance of the evidence that the juvenile has violated or failed to perform the juvenile portion
15 of an extended jurisdiction sentence; and

16 (vii) transfer a juvenile case to district court after notice and hearing; ~~and~~

17 (c) impose criminal sanctions on a juvenile as authorized by the Extended Jurisdiction Prosecution
18 Act, Title 41, chapter 5, part 16."

19

20 **Section 8.** Section 41-5-205, MCA, is amended to read:

21 **"41-5-205. Retention of jurisdiction -- termination.** (1) The court may dismiss a petition or
22 otherwise terminate jurisdiction on its own motion or on the motion or petition of any interested party at
23 any time. Unless terminated by the court and except as provided in subsections (2) and (3), the jurisdiction
24 of the court continues until the individual becomes 21 years of age.

25 (2) Court jurisdiction terminates when:

26 (a) the proceedings are transferred to district court under 41-5-208 or an information is filed
27 concerning the offense in district court pursuant to 41-5-206;

28 (b) the youth is discharged by the department; or

29 (c) execution of a sentence is ordered under 41-5-1605(2)(b)(iii) and the supervisory
30 responsibilities are transferred to the district court under 41-5-1605.

(3) The jurisdiction of the court over an extended jurisdiction juvenile, with respect to the offense for which the youth was convicted as an extended jurisdiction juvenile, extends until the offender becomes 25 years of age unless the court terminates jurisdiction before that date.

(4) The jurisdiction of the court is not terminated if the department issues a release from supervision due to the expiration of a commitment pursuant to 41-5-1522."

Section 9. Section 41-5-206, MCA, is amended to read:

"41-5-206. Filing in district court prior to formal proceedings in youth court. (1) The county attorney may, in the county attorney's discretion and in accordance with the procedure provided in 46-11-201, file with the district court a motion for leave to file an information in the district court if:

(a) the youth charged was 12 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act would if it had been committed by an adult constitute:

(i) sexual intercourse without consent as defined in 45-5-503;

(ii) deliberate homicide as defined in 45-5-102;

(iii) mitigated deliberate homicide as defined in 45-5-103;

(iv) assault on a peace officer or judicial officer as defined in 45-5-210; or

(v) the attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for either deliberate or mitigated deliberate homicide; or

(b) the youth charged was 16 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act is one or more of the following:

(i) negligent homicide as defined in 45-5-104;

(ii) arson as defined in 45-6-103;

(iii) aggravated assault as defined in 45-5-202;

(iv) assault with a weapon as defined in 45-5-213;

(v) robbery as defined in 45-5-401;

(vi) burglary or aggravated burglary as defined in 45-6-204;

(vii) aggravated kidnapping as defined in 45-5-303;

(viii) possession of explosives as defined in 45-8-335;

(ix) criminal distribution of dangerous drugs as defined in 45-9-101;

(x) criminal production or manufacture of dangerous drugs as defined in 45-9-110;

(xi) attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for any of the acts enumerated in subsections (1)(b)(i) through (1)(b)(iii) and (1)(b)(v) through (1)(b)(xii);

(xii) use of threat to coerce criminal street gang membership or use of violence to coerce criminal street gang membership, as defined in 45-8-403;

(xiii) escape as defined in 45-7-306.

(2) The county attorney shall file with the district court a petition for leave to file an information in district court if the youth was 17 years of age at the time the youth committed an offense listed under subsection (1). The county attorney may file with the district court a petition for leave to file an information in district court for an offense not listed in subsection (1) if the offense was committed by a youth when the youth was 17 years of age.

(3) The district court shall grant leave to file the information if it appears from the affidavit or other evidence supplied by the county attorney that there is probable cause to believe that the youth has committed the alleged offense. Within 30 days after leave to file the information is granted, the district court shall conduct a hearing to determine whether the matter must be transferred back to the youth court, unless the hearing is waived by the youth or by the youth's counsel in writing or on the record. The hearing may be continued on request of either party for good cause. The district court may not transfer the case back to the youth court if unless the district court finds, by a preponderance of the evidence, that:

(a) a youth court proceeding and disposition will not serve the interests of community protection

and;

(b) that the nature of the offense does not warrant prosecution in district court; and

(c) it would be in the best interests of the youth, and that, considering the seriousness of the offense, the case should remain in the district court if the matter was prosecuted in youth court.

(4) The filing of an information in district court terminates the jurisdiction of the youth court over the youth with respect to the acts alleged in the information. A youth may not be prosecuted in the district court for a criminal offense originally subject to the jurisdiction of the youth court unless the case has been filed in the district court as provided in this section. A case may be transferred to district court after prosecution as provided in 41-5-208 or 41-5-1605.

(5) An offense not enumerated in subsection (1) that arises during the commission of a crime enumerated in subsection (1) may be:

1 (a) tried in youth court;

2 (b) transferred to district court with an offense enumerated in subsection (1) upon motion of the
3 county attorney and order of the district court. The district court shall hold a hearing before deciding the
4 motion.

5 (6) If a youth is found guilty in district court of an offense enumerated in subsection (1), the court
6 shall sentence the youth pursuant to 41-5-2503 and Titles 45 and 46. A youth who is sentenced to the
7 department or a state prison must be evaluated and placed by the department in an appropriate juvenile
8 or adult correctional facility. The department shall confine the youth in an institution that it considers
9 proper, including a state youth correctional facility under the procedures of 52-5-111. However, a youth
10 under 16 years of age may not be confined in a state prison facility. During the period of confinement,
11 school-aged youth with disabilities must be provided an education consistent with the requirements of the
12 federal Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.

13 (7) ~~A youth whose~~ If a youth's case is filed in the district court and remains in the district court
14 after the transfer hearing, the youth may not be detained or otherwise placed in a jail or other adult
15 detention facility before pending final disposition of the youth's case ~~unless:~~

16 ~~(a) alternative facilities do not provide adequate security, and~~

17 ~~(b) if the youth is kept in an area that provides physical separation as well as sight and sound~~
18 ~~separation from adults accused or convicted of criminal offenses."~~

19

20 **Section 10.** Section 41-5-1512, MCA, is amended to read:

21 **"41-5-1512. Disposition of youth in need of intervention or youth who violate consent**
22 **adjustments.** If a youth is found to be a youth in need of intervention or to have violated a consent
23 adjustment, the youth court may enter its judgment making one or more of the following dispositions but
24 may not order a state or local government entity to pay for care, treatment, intervention, placement, or
25 evaluation:

26 (1) place the youth on probation. The youth court shall retain jurisdiction in a disposition under
27 this subsection.

28 (2) place the youth in a residence that ensures that the youth is accountable, that provides for
29 rehabilitation, and that protects the public. Before placement, the sentencing judge shall seek and consider
30 placement recommendations from the youth placement committee. ~~The judge may not place the youth in~~

~~a residence unless the department informs the judge that resources are available for placement of the youth at that residence.~~

(3) commit the youth to ~~the department~~ youth court probation for the purposes of funding a private, out-of-home, residential placement subject to the conditions in 41-5-1522. In an order committing a youth to ~~the department~~ youth court probation, the court shall determine whether continuation in the youth's own home would be contrary to the welfare of the youth and whether reasonable efforts have been made to prevent or eliminate the need for removal of the youth from the youth's home. The court shall require a case plan to provide for transition from the out-of-home residential placement back into the community.

(4) order restitution for damages that result from the offense for which the youth is disposed by the youth or by the person that contributed to the delinquency of the youth;

(5) require the performance of community service;

(6) require the youth, the youth's parents or guardians, or the persons having legal custody of the youth to receive counseling services;

(7) require the medical and psychological evaluation of the youth, the youth's parents or guardians, or the persons having legal custody of the youth;

(8) require the parents, guardians, or other persons having legal custody of the youth to furnish services the court may designate;

(9) order further care, treatment, evaluation, or relief that the court considers beneficial to the youth and the community ~~and that does not obligate funding from the department for services outside the state of Montana without the department's approval, except that a youth may not be placed by a youth court in a residential treatment facility as defined in 50-5-101. Only the department may, pursuant to subsection (3) of this section, place a youth in a residential treatment facility.~~

(10) subject to the provisions of 41-5-1504, commit the youth to a mental health facility if, based upon the testimony of a professional person as defined in 53-21-102, the court finds that the youth is found to be suffering from a mental disorder, as defined in 53-21-102, and meets the criteria in 53-21-126(1);

(11) place the youth under home arrest as provided in Title 46, chapter 18, part 10;

(12) order confiscation of the youth's driver's license, if the youth has one, by the probation officer for a specified period of time, not to exceed 90 days. The probation officer shall notify the department of

1 justice of the confiscation and its duration. The department of justice may not enter the confiscation on
2 the youth's driving record. The probation officer shall notify the department of justice when the
3 confiscated driver's license has been returned to the youth. A youth's driver's license may be confiscated
4 under this subsection more than once. The probation officer may, in the probation officer's discretion and
5 with the concurrence of a parent or guardian, return a youth's confiscated driver's license before the
6 termination of the time period for which it had been confiscated. The confiscation may not be used by an
7 insurer as a factor in determining the premium or part of a premium to be paid for motor vehicle insurance
8 covering the youth or a vehicle or vehicles driven by the youth, nor may it be used as grounds for denying
9 coverage for an accident or other occurrence under an existing policy.

10 (13) order the youth to pay a contribution covering all or a part of the costs for the adjudication,
11 disposition, attorney fees for the costs of prosecuting or defending the youth, costs of detention,
12 supervision, care, custody, and treatment of the youth, including the costs of counseling;

13 (14) order the youth to pay a contribution covering all or a part of the costs of a victim's
14 counseling;

15 (15) defer imposition of sentence for up to 45 days for a placement evaluation at a suitable
16 program or facility with the following conditions:

17 (a) The court may not order placement for evaluation at a youth correctional facility of a youth
18 who has committed an offense that would not be a criminal offense if committed by an adult or a youth
19 who has violated a consent adjustment.

20 (b) The placement for evaluation must be on a space-available basis at the county's expense,
21 which is not reimbursable under part 19 of this chapter.

22 (c) The court may require the youth's parents or guardians to pay a contribution covering all or
23 a part of the costs of the evaluation if the court determines after an examination of financial ability that
24 the parents or guardians are able to pay the contribution. Any remaining unpaid costs of evaluation are the
25 financial responsibility of the judicial district of the court that ordered the evaluation.

26 (16) order placement of a youth in a youth assessment center for up to 10 days;

27 (17) order the youth to participate in mediation that is appropriate for the offense committed."
28

29 **Section 11.** Section 41-5-1513, MCA, is amended to read:

30 **"41-5-1513. Disposition -- delinquent youth -- restrictions.** (1) If a youth is found to be a

1 delinquent youth, the youth court may enter its judgment making one or more of the following dispositions:

2 (a) any one or more of the dispositions provided in 41-5-1512;

3 (b) subject to 41-5-1504, 41-5-1512(15)(a), and 41-5-1522, commit the youth to the department
4 for placement in a state youth correctional facility and recommend to the department that the youth not
5 be released until the youth reaches 18 years of age. The court may not place a youth adjudicated
6 delinquent in a state youth correctional facility for an offense that would be a misdemeanor if committed
7 by an adult ~~unless the court finds that the youth presents a danger to the public safety and that the~~
8 ~~placement is recommended by a mental health professional after evaluation of the youth. A youth who~~
9 violates the conditions of probation may not be committed to a state youth correctional facility unless the
10 probation resulted from an adjudication for an offense that would be a felony if committed by an adult.

11 (c) require a youth found to be a delinquent youth, as the result of the commission of an offense
12 that would be a sexual offense or violent offense, as defined in 46-23-502, if committed by an adult, to
13 register as a sexual or violent offender pursuant to Title 46, chapter 23, part 5. The youth court shall
14 retain jurisdiction in a disposition under this subsection.

15 (d) in the case of a delinquent youth who is determined by the court to be a serious juvenile
16 offender, the judge may specify that the youth be placed in a state youth correctional facility, subject to
17 the provisions of subsection (2), if the judge finds that the placement is necessary for the protection of
18 the public. The court may order the department to notify the court within 5 working days before the
19 proposed release of a youth from a youth correctional facility. Once a youth is committed to the
20 department for placement in a state youth correctional facility, the department is responsible for
21 determining an appropriate date of release or an alternative placement.

22 (e) impose a fine as authorized by law if the violation alleged would constitute a criminal offense
23 if committed by an adult.

24 (2) If a youth has been adjudicated for a sex offense, the youth court may require completion of
25 sex offender treatment before a youth is discharged.

26 (3) The court may not order a state or local government entity to pay for care, treatment,
27 intervention, placement, or evaluation."

28
29 **Section 12.** Section 52-5-109, MCA, is amended to read:

30 **"52-5-109. Commitment expenses -- arrangement for transportation.** The expenses of committing

1 a youth to ~~the Pine Hills~~ a state youth correctional facility or the department of corrections and the
2 expenses of transporting the youth to ~~the Pine Hills~~ a state youth correctional facility or ~~the place~~
3 ~~designated by the department for it to receive custody~~ a private, out-of-home residential placement, either
4 in the state of Montana or in another state, as well as the expense of returning the youth to the county
5 of ~~residence~~ commitment, must be borne by the ~~county of residence~~ department and paid for out of the
6 account established under [section 16]. The ~~district judge~~ youth court probation office shall arrange for
7 transportation of the youth to and from the place where the ~~department has directed that it will receive~~
8 custody of the youth youth court has ordered that the youth be placed."

9

10 **Section 13.** Section 52-5-129, MCA, is amended to read:

11 **"52-5-129. Hearing on alleged violation of parole agreement -- right to appeal outcome.** (1) When
12 it is alleged by a juvenile parole officer that a youth has violated the terms of the youth's parole
13 agreement, the youth must be granted a hearing at the site of the alleged violation or in the county in
14 which the youth is residing or is found within 10 days after notice has been served on the youth or the
15 youth is detained, whichever is earlier. At the discretion of the hearings officer, this hearing may be held
16 by means of interactive video transmission. The purpose of the hearing is to determine whether the youth
17 committed the violation and, if so, whether the violation is of such a nature that the youth should be
18 returned to the youth correctional facility from which the youth was released or whether a different plan
19 for custody and supervision of the youth should be pursued by the department of corrections.

20 (2) The youth, upon advice of an attorney, may waive the right to a hearing.

21 (3) With regard to this hearing, the youth must be given:

22 (a) written notice of the alleged violation of the parole agreement, including notice of the purpose
23 of the hearing;

24 (b) a disclosure of the evidence against the youth and the facts constituting the alleged violation;

25 (c) the opportunity to be heard in person or by interactive video transmission and to present
26 witnesses and documentary evidence to controvert the evidence against the youth and to show that there
27 are compelling reasons that justify or mitigate the violation;

28 (d) the opportunity to have the hearings officer subpoena witnesses;

29 (e) the right to confront and cross-examine adverse witnesses in person or by means of interactive
30 video transmission;

1 (f) the right to be represented by an attorney;

2 (g) a record of the hearing; and

3 (h) notice that a written statement as to the evidence relied upon in reaching the final decision and
4 the reasons for the final decision will be provided by the hearings officer.

5 (4) The department shall provide a hearings officer to conduct the hearing. The department shall
6 adopt rules necessary to effect a prompt and full review.

7 (5) If the hearings officer finds, by a preponderance of the evidence, that the youth did in fact
8 commit the violation, the hearings officer shall make a recommendation to the department for the
9 placement of the youth. In making this recommendation, the hearings officer may consider mitigating or
10 aggravating circumstances. The youth or the youth's attorney may appeal the hearings officer's decision
11 to the department director. The appeal must be made in writing within 5 days of the hearing. The
12 department director or designee shall grant or deny the appeal within 5 days of receipt of the appeal.

13 (6) The youth may appeal the decision of the department director to the district court of the
14 county in which the hearing was held by serving and filing a notice of appeal with the court within 10 days
15 of the department director's decision. The youth may obtain a written transcript of the hearing from the
16 department by giving written notice of appeal. The district court, upon receipt of a notice of appeal, shall
17 order the department to promptly certify to the court a record of all proceedings before the department
18 and shall proceed to a prompt hearing on the appeal based upon the record on appeal. The decision of the
19 department may not be altered except for abuse of discretion or manifest injustice.

20 (7) Pending the hearing on a violation and pending the department's decision, a youth may not
21 be detained except when the youth's detention or care is required to protect the person or property of the
22 youth or of others or the youth may abscond or be removed from the community. The department shall
23 determine the place and manner of detention pursuant to 41-5-348 and is responsible for the cost of the
24 detention. Procedures for taking into custody and detention of a youth charged with violation of the
25 youth's parole agreement are as provided in 41-5-321.

26 (8) If the decision is made to return the youth to the youth correctional facility from which the
27 youth was released and the youth appeals that decision, the youth shall await the outcome of the appeal
28 at the facility.

29 (9) If a youth is placed in an alternative placement due to overcrowding at a state youth
30 correctional facility, the state youth correctional facility from which the youth was diverted must be

1 considered the state youth correctional facility from which the youth was released."

2

3 **NEW SECTION. Section 14. Short title.** [Sections 14 through 19] may be cited as the "Juvenile
4 Delinquency Intervention Act".

5

6 **NEW SECTION. Section 15. Purpose.** The purposes of [sections 14 through 19] are to:

7 (1) provide an alternate method of funding juvenile placement and services;

8 (2) increase the ability of local government to respond to juvenile delinquency through early
9 intervention and expanded community alternatives; and

10 (3) enhance the ability of local government to control costs.

11

12 **NEW SECTION. Section 16. Establishment of program -- department duties.** (1) (a) There is a
13 juvenile delinquency intervention program.

14 (b) There is an account in the state special revenue fund. The money in the account is statutorily
15 appropriated, as provided in 17-7-502, to the department to be used to administer [sections 14 through
16 19].

17 (2) The department shall create a subaccount for each youth court and use data gathered during
18 the administration of the program to determine the amount of funding to be placed in each subaccount.
19 The subaccounts must be used by the youth courts for funding in-state and out-of-state placement and
20 services.

21 (3) The department shall withhold a portion of the funds allocated to each subaccount to provide
22 a cost containment fund for judicial districts that experience youth crime rates that exceed the youth crime
23 rates projected by the department.

24 (4) The department and the youth court shall monitor the youth court's subaccount to ensure that
25 the youth court does not exceed its allocated subaccount budget.

26 (5) Subaccount funds not used by the youth court for placements must be distributed to that
27 youth court in accordance with rules adopted by the department to be used for placement alternatives and
28 early intervention alternatives.

29 (6) The department shall provide technical assistance to each youth court for the monitoring of
30 subaccount funds and the evaluation and development of placement alternatives and effective intervention

1 programming.

2 (7) The department shall review and monitor each youth court to enable the development of
3 placement alternatives by the youth courts and the development of early intervention alternatives by the
4 youth courts. The department shall report to the legislature on the results of its monitoring.

5 (8) The department shall collect data and coordinate with the board of crime control to study and
6 develop a plan to mitigate overrepresentation of minority youth in the youth court system.

7

8 **NEW SECTION. Section 17. Youth court duties.** (1) Each youth court shall:

9 (a) use available resources to develop alternatives for the placement of youth;

10 (b) use available resources for early intervention strategies for troubled youth;

11 (c) use a risk assessment instrument approved by the department for the measurement of risk
12 assessment and effectiveness of treatment or intervention for youth adjudicated pursuant to 41-5-1512
13 or 41-5-1513;

14 (d) submit quarterly reports to the department documenting the use of diversionary and prevention
15 programs and the use of placement services;

16 (e) participate in the cost containment review panel established under [section 18]; and

17 (f) provide the department and the legislative auditor with access to all records maintained by the
18 youth court.

19 (2) A youth court may not order a local government or a state governmental entity to pay the
20 costs of placement of a youth under [sections 14 through 19] if the local government or state
21 governmental entity informs the youth court that its current budget does not contain funds that will pay
22 for the placement.

23

24 **NEW SECTION. Section 18. Cost containment review panel.** (1) The department shall establish
25 a cost containment review panel to administer the cost containment fund reserved by the department
26 pursuant to [section 16].

27 (2) The cost containment review panel shall consist of the following members appointed by the
28 department:

29 (a) two members from the department of corrections;

30 (b) a member from the department of public health and human services;

(c) a representative from the field of mental health;

(d) a youth court judge;

(e) a chief juvenile probation officer; and

(f) a county commissioner.

(3) Decisions of the cost containment review panel must be by majority vote.

(4) The cost containment review panel shall determine the distribution of funds in the cost containment fund.

(5) The cost containment review panel may evaluate the effectiveness of new or innovative programs for the treatment of troubled youth and make recommendations to the youth courts and the department.

(6) A youth court that exceeds its subaccount allocation under [section 16] may request funds from the cost containment fund. If a panel member referred to in subsections (2)(d) through (2)(f) is a resident of or is employed in the judicial district of a youth court requesting cost containment funds, the panel member may not serve as a panel member for purposes of a decision regarding disbursement of cost containment funds to the youth court and an alternate panel member must be appointed by the department for purposes of the decision.

NEW SECTION. **Section 19. Rulemaking authority.** (1) The department shall adopt rules necessary for the implementation of [sections 14 through 19], including but not limited to:

(a) defining and establishing criteria for early intervention regarding troubled youth and the development of community alternatives;

(b) evaluating each youth court to ensure the court is using early intervention strategies and community alternatives and is effectively controlling costs for youth placements;

(c) distributing unused subaccount funds to the youth courts;

(d) determining the allocation of funds to the subaccounts for the youth courts;

(e) determining the amount of funds to be withheld by the department as cost containment funds;

(f) monitoring and auditing each youth court to ensure that subaccount funds are being used as required by law;

(g) distributing cost containment funds to youth courts;

(h) monitoring youth courts to promote consistency and uniformity in the placement of juvenile

1 offenders;

2 (i) developing procedures for the operation of the cost containment review panel;

3 (j) developing of one or more risk assessment tools;

4 (k) developing procedures for mitigating overrepresentation of minority youth in the youth court
5 system; and

6 (l) developing procedures for removing youth with serious mental illness from the juvenile
7 correctional system.

8 (2) It is the intent of the legislature that rules adopted by the department encourage the use of
9 local, regional, and state resources for the placement of troubled youth.

10
11 **NEW SECTION.** **Section 20. Allocation of first-year funding.** The department of corrections shall
12 use data gathered during the administration of the intervention in delinquency pilot program established
13 under section 73, Chapter 550, Laws of 1997, to assist in determining the allocations to the subaccounts
14 created under [section 16] during the first year of operation of the juvenile delinquency intervention
15 program established by [section 16].

16
17 **NEW SECTION.** **Section 21. Fund transfer.** There is transferred each year \$800,000 from the
18 general fund to the special revenue fund account established in [section 16].

19
20 **NEW SECTION.** **Section 22. Codification instruction.** [Sections 14 through 19] are intended to
21 be codified as an integral part of Title 41, chapter 5, and the provisions of Title 41, chapter 5, apply to
22 [sections 14 through 19].

23
24 **NEW SECTION.** **Section 23. Severability.** If a part of [this act] is invalid, all valid parts that are
25 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
26 applications, the part remains in effect in all valid applications that are severable from the invalid
27 applications.

28
29 **NEW SECTION.** **Section 24. Effective date.** [This act] is effective July 1, 2001.

30 - END -

Rep. Eggers said in lieu of Mr. MacMaster's remarks, this Bill is not ready for the Committee's consideration. Rep. Shockley agreed.

HEARING ON HB 146

Sponsor: Rep. Jim Shockley, HD 61, Ravalli County said this Bill has been requested by the Department of Corrections. It deals with juvenile delinquency and money and how we handle it. It is a very expensive process and this Bill does have a fiscal note that will be close to \$1 million a year. The Bill creates a budget for each Judicial District. The Youth Court in each Judicial District will have a budget with x amount of money. This money can be used to handle the juvenile delinquency problems. The control of the program will be with the Youth Court in that District. The constraint is they will have to stay within the budget with certain exceptions. There will be an \$800,000 reserve for districts that run over their budgets but this reserve will be held by the Department and the Youth Court will have to go to the Department and explain why they went over.

Proponents: Mike Ferriter, Administrator, Community Corrections Division EXHIBIT(4)

Matt Robertson, Attorney, Department of Corrections

Deb Kottel, Dean, University of Great Falls

Sen. Mike Halligan, SD 34, Missoula

{Tape : 3; Side : A; Approx. Time Counter : 8.10 - 23.9}

Carol A. Stratemeyer, Chief Juvenile Probation Officer, 21st Judicial District Youth Court EXHIBIT(5)

Dick Boutelier, Youth Court Officer, 8th Judicial District, Great Falls.

Richard Meeker, Chief Probation Officer, 1st Judicial District, Lewis and Clark and Broadwater Counties.

Opponents: Sandy Oitzinger, Executive Director, Montana Juvenile Probation Officers' Association. EXHIBIT(6)

{Tape : 3; Side : A; Approx. Time Counter : 23.1 - 29.7}

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 8.7}

Glen Welch, Chief Probation Officer, Missoula

Peggy Beltram, Cascade County Commissioner

Joy Mariska, Director, Court Services, 13th Judicial District, Yellowstone County.

Mark Angelus, Deputy County Attorney, Yellowstone County.

Tom Ramirez, Billings, 13th Judicial District, Billings

Rep. Jeff Mangan, HD 45, Great Falls

Robert Peake, President, Juvenile Probation Officers' Association

(Tape : 3; Side : B; Approx. Time Counter : 8.7 - 29.7)

Questions from Committee: Reps. Curtiss, Newman, Hurdle, Noennig, Clark, Peterson, Mangan to Matt Robertson and Mike Ferriter, Department of Corrections; Deb Kottel; Joy Mariska for clarification.

(Tape : 4; Side : A; Approx. Time Counter : 0.1 - 29)

Further Questions from Committee: Reps. Mangan, Gutsche to Mike Ferriter; Ms. Kottel; Ms. Mariska for clarification.

Closing by Sponsor: Rep. Shockley closed the Hearing on HB 146 by saying the amount of money involved, roughly \$19 million, is just a little less than what they spent the last biennium. Juvenile probation officers work for the District Judge and not for the Department. They are also paid by the County Commissioners, not the Department. There was a County Commissioner concerned about the costs. That was discussed specifically on page 17: the Judge cannot order local government to make any payments, with a treatment care exception. The idea is to put on some monetary restraints. There is going to be some conflict with the judges because this statute says specifically that they may not make the Department pay. Rep. Shockley discussed the merits of amendments he will propose.

Rep. Mangan referred to his testimony and said for the Chair, Rep. Laszloffy to make a blanket opinion that he is opposed to this Bill is not only wrong but is improper and he respectfully requests the Chair reverse that and put it in the record. Rep. Laszloffy said with respect to Rep. Mangan, the reason he ruled that way (as an Opponent) was because, when he (Rep. Mangan) was talking about page 14, lines 23, 24 and 25, he said he was

opposed to that statement. That is not a neutral statement. That is taking a position on the Bill and whether or not **Rep. Mangan** said he asked for a Do Pass or a Do Not Pass is irrelevant and that's the reason he made that ruling. He does not mean to be contentious but the reason he did that, and, as stated above, suggested **Rep. Mangan** talk to his Vice-Chair. If that does not work out he can always come back. According to House Rule 2030, sub 2, any decision of the Chairman is reversible and he can appeal to the Committee. **Rep. Clark** recommended that they reserve this for a time when they have executive action and he will discuss this with **Rep. Mangan** and **Rep. Laszloffy** to settle the issue. **Rep. Noennig** concurred with that. He thinks **Rep. Mangan's** position can be made a motion in executive action and the Committee can rule on it. The way he understands, it can be a ruling of the Chair of the Committee. He respectfully requested they defer that until a time when the Committee meets in executive action and bring up the issue then if it still needs to be done and hasn't been resolved. **Rep. Mangan** agreed.

EXHIBIT(7) and **EXHIBIT(8)** received as additional information for HB 151.

EXECUTIVE ACTION ON HB 195

Motion: **REP. NEWMAN** moved that HB 195 DO PASS. #1

Motion: **REP. NEWMAN** moved that HB 195 BE AMENDED. #2

Discussion: **Rep. Newman** explained his amendments saying specifically on Page 2, lines 5 and 6 in the new language concerning criminal possession of dangerous drugs, the amendment would delete subsection II and would delete "Second or subsequent offense".

EXECUTIVE ACTION ON HB 195

Motion: **REP. NOENNIG** moved that HB 195 DO PASS AS AMENDED. #3

Discussion: **Reps. Hurdle, Peterson, Noennig, Newman, Adams, Gutsche, Clark, Clancy, Eggers and Younkin.**

Vote: Motion #3 carried 15 - 4 with **Reps. Clark, Gutsche, Hurdle,** and **Mangan** voted no.

{Tape : 4; Side : B; Approx. Time Counter : 0.1 - 28.9}

{Tape : 5; Side : A; Approx. Time Counter : 0.1 - 14.5}

Discussion: Reps. Newman, Gutsche, Younkin, Mr. MacMaster, Noennig, Eggers for clarification. Without objection, Sarah Bond responded.

Vote: The Laszloffy amendment (#11) passed unanimously 19-0.

Motion: Rep. Noennig moved amendments EXHIBIT(4) #12.

Discussion: Reps. Noennig, Gutsche, Newman

Vote: The Noennig amendment (#12) carried unanimously 19-0.

{Tape : 3; Side : A; Approx. Time Counter : 2.7 - 29}

Motion: Rep. Rice moved an amendment #13

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 2.9}

Discussion: Mr. MacMaster explained the amendments' procedure. Reps. Harris, Gutsche, Rice, Gallus, Clark, Harris, Eggers, Younkin, Wolery.

Vote: The Rice amendment #13 failed 3-17.

Motion: Rep. Noennig moved HB 165 DO PASS AS AMENDED. #14

Discussion: Reps. Holden, Gutsche, Shockley

Vote: Motion #14 carried 17-3 with Reps. Peterson, Rice and Wolery voting no.

EXECUTIVE ACTION ON HB 146

Motion: REP. SHOCKLEY moved that HB 146 DO PASS. #15

Discussion: Rep. Shockley explained the Bill.

{Tape : 3; Side : B; Approx. Time Counter : 3 - 29.1}

{Tape : 4; Side : A; Approx. Time Counter : 0.1 - 0.6}

Motion: REP. SHOCKLEY moved that HB 146 BE AMENDED. #16 EXHIBIT(5)

Discussion: Reps. Shockley, Wolery, Newman, Hurdle, Noennig,

{Tape : 4; Side : A; Approx. Time Counter : 0.6 - 5.4}

{Tape : 4; Side : A; Approx. Time Counter : 5.4 - 16.2}

Vote: The Shockley amendment (#16) carried unanimously 20-0.

Discussion: Reps. Noennig, Shockley with concerns to Matt Robertson, Department of Corrections, without objection; Reps. Gallus, Newman, Clark, Peterson, Curtiss, for clarification.

{Tape : 4; Side : A; Approx. Time Counter : 16.3 - 29.6}

{Tape : 4; Side : B; Approx. Time Counter : 0.1 - 12.6}

Motion/Vote: REP. SHOCKLEY moved that HB 146 BE AMENDED. #17
Motion carried unanimously 20-0

Motion/Vote: REP. SHOCKLEY moved that HB 146 DO PASS AS AMENDED.
#18. Motion carried 11-8 with Reps. Laszloffy, Adams, Curtiss, Eggers, Gallus, Noennig, Peterson and Rice voting no.

{Tape : 4; Side : B; Approx. Time Counter : 12.6 - 18.3}

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN STEVE VICK**, on February 2, 2001 at 8:00 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Steve Vick, Chairman (R)
Rep. Dave Lewis, Vice Chairman (R)
Rep. Matt McCann, Vice Chairman (D)
Rep. John Brueggeman (R)
Rep. Rosalie (Rosie) Buzzas (D)
Rep. Tim Callahan (D)
Rep. Edith Clark (R)
Rep. Bob Davies (R)
Rep. Stanley Fisher (R)
Rep. Dick Haines (R)
Rep. Joey Jayne (D)
Rep. Dave Kasten (R)
Rep. Christine Kaufmann (D)
Rep. Monica Lindeen (D)
Rep. Jeff Pattison (R)
Rep. Art Peterson (R)
Rep. Joe Tropila (D)
Rep. John Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Paula Broadhurst, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 146, HB 435
Executive Action:

HEARING ON HB 146

Sponsor: REP. JIM SHOCKLEY, HD 61, BILLINGS

Proponents: Deborah Kottel, Dean, University of Great Falls

Opponents: Sandy Oltzinger, Executive Director, Montana
Juvenile Probation Officers Association

Opening Statement by Sponsor:

REP. JIM SHOCKLEY, HD 61, HAMILTON, said the bill would revise the youth court relating to detention and placement. He went through sections of the bill and explained the appropriation needs. He mentioned the process pertaining to the placement of the youth in a community-based facility or program. He addressed the court's jurisdictions over the youth.

Proponents' Testimony:

Deborah Kottel, Dean, University of Great Falls, explained the research of the types of offenders, offenses and treatment programs available. She said the state was obligated to pay for the cost of juvenile offenders and the bill would work with cost shifting offering the counties the authority to place the youths. She recommended the program should be enacted and all judicial districts should be involved with the innovative program. Plus intervention should occur sooner in the process. She mentioned the surplus funds to cover unexpected costs and the need to increase funding for training.

Opponents' Testimony:

Sandy Oltzinger, Executive Director, Montana Juvenile Probation Officers Association, explained the allocations for the current program. She felt the concept to add as many resources as possible into prevention programs was good. She referenced the possible liability consequences of giving the authority to local governments.

Questions from Committee Members and Responses:

REP. CHRISTINE KAUFMANN asked if there would be any savings. Deborah Kottel answered no. She explained the decisions made and how the money would be distributed.

REP. KAUFMANN asked if the funds from the original bill were still available. Deborah Kottel said the original bill proposed allocations to obtain the funding.

REP. JOEY JAYNE asked about the opposition of the bill. Sandy Oltzinger thought the \$1.6 million cost containment fund would be removed. CHAIRMAN STEVE VICK thought the bill would work without the \$1.6 million. REP. SHOCKLEY explained the appropriation of \$1.6 million. He said it was to be a contingency in case the judicial districts went over their budgets. This would allow the districts to be on a budget.

REP. DAVE LEWIS asked what would happen if the bill passed without any money available. Joe Williams, Department of Corrections, said the bill carried forward a commitment from former Governor Racicot and they believed it would be workable with the \$1.6 million.

REP. TIM CALLAHAN mentioned issues dealing with the authority for placements. He said any overruns with budgets would fall to the counties to resolve.

Closing by Sponsor:

REP. JIM SHOCKLEY, HD 61, HAMILTON, summarized the bill and gave further explanation of the \$1.6 million. He emphasized the authority to counties for placement of the youth and urged the committee to support the legislation.

HEARING ON HB 435

Sponsor: REP. BOB LAWSON, HD 80, WHITEFISH

Proponents: Kelly Talsma, Counselor, Whitefish School District
Jerry House, Superintendent, Whitefish
Eric Burke, MEA-MFT

Opponents: None

Informational Witnesses: Maureen Rude, Fannie Mae
Jerry LaChere, Director, MT. Lottery

Opening Statement by Sponsor:

REP. BOB LAWSON, HD 80, WHITEFISH, said the goal of the bill was to provide financial incentives to Montana certified public educators K-12 and offer the ability to purchase primary residence housing within school boundaries. He felt it would make it possible to retain and recruit staff and stated the bill was fashioned after the Mississippi bill. He explained the process they went through to write the bill. He explain

Motion: REP. TROPILA moved HB 49 DO PASS.

Discussion:

REP. LEWIS opposed the bill and referred the committee about the legislative audit.

REP. MCCANN felt the program wasn't being increased.

REP. PATTISON opposed the bill due to the money being loaned out.

REP. BUZZAS wondered about a follow up audit before increasing any future funding.

Substitute Motion/Vote: REP. MCCANN made a substitute motion HB 449 BE TABLED. Substitute motion carried 17-1 with REP. TROPILA voting no.

EXECUTIVE ACTION ON HB 92

Motion: REP. TROPILA moved HB 92 DO PASS.

Discussion:

REP. MCCANN didn't think this legislative session could fund this bill.

Substitute Motion/Vote: REP. MCCANN made a substitute motion HB 92 BE TABLED. Substitute motion carried 15-3 with REP. JAYNE, REP. KAUFMANN and REP. TROPILA voting no.

EXECUTIVE ACTION ON HB 146

Motion: REP. LEWIS moved HB 146 BE AMENDED. Amendments were handed out EXHIBIT(17).

Discussion:

Taryn Purdy, Legislative Staff, explained the amendments and gave clarifications of the language.

REP. KASTEN wondered if no funding was available there wouldn't be a need for the bill. REP. TIM CALLAHAN explained the pilot program that would be established. He said the bill was to be a safety net allowing judicial districts additional funding.

REP. KAUFMANN said the counties needed the additional funding and she didn't support the amendments.

REP. BUZZAS thought the money was currently available. REP. CALLAHAN said there was placement money and he explained why it had been underfunded.

{Tape 2, Side B}

CHAIRMAN VICK commented on the contingency fund. He supported the amendment with the bill.

Vote: Motion carried 13-5 with REP. BUZZAS, REP. CALLAHAN, REP. JAYNE, REP. KAUFMANN and REP. LINDEEN voting no.

Motion/Vote: REP. MCCANN moved HB 146 DO PASS AS AMENDED. Motion carried 14-4 with REP. BUZZAS, REP. CALLAHAN, REP. KAUFMANN and REP. LINDEEN voting no.

EXECUTIVE ACTION ON HB 186

Motion: REP. KASTEN moved HB 186 DO PASS.

Discussion:

REP. BUZZAS didn't like the tight budget and explained her reasons to oppose this legislation.

Substitute Motion/Vote: REP. BUZZAS made a substitute motion HB 186 BE TABLED. Substitute motion failed 5-13 with REP. BUZZAS, REP. FISHER, REP. KAUFMANN, REP. PETERSON and CHAIRMAN VICK voting aye.

{Tape 3, Side A}

Discussion Continued:

REP. MONICA LINDEEN said they should research increasing the funding to \$100,000.

CHAIRMAN VICK explained the addition to an amendment.

Motion: REP. LINDEEN moved HB 186 BE AMENDED and adopt an increase of funding to \$100,000.

Discussion:

at the pump because the transaction comes up on the screens. He felt if using credit cards, this would be a small percentage of people driving off.

CHAIRMAN GROSFIELD asked if there was any problem with using a credit card and not signing for it. **Tim Sweeney** said the pumps are set to a certain limit for a transaction to be used by credit card. The possibility of a stolen credit card can only be used to a certain limit and he mentioned incidences where copies of the computer printouts showed the transaction actually happened.

CHAIRMAN GROSFIELD asked about people who pump gas and then add extra when it shuts off and enter the store and have two different charges. **Tim Sweeney** explained the computer system takes one transaction as completed when the pump has to be back in the holster before another transaction can happen.

SEN. GRIMES said people sometimes forget to pay because they have too many things going on i.e. kids, jobs and he asked what happens with unintentional drive-offs. **Tim Sweeney** said there are good regular customers who come back because they simply forgot.

Closing by Sponsor:

REP. JOE MCKENNEY, HD 49, GREAT FALLS, responded to **SEN. GRIMES** last question by stating forgetfulness of people, unintentional would not be a criminal activity. He said this is a simple bill tightening up the penalties for this crime and he urged a do pass motion.

HEARING ON HB 146

Sponsor: **REP. JIM SHOCKLEY, HD 61, VICTOR**

Proponents: **Mike Ferriter, Administrator Community
Corrections, Dept. of Corrections
Matt Robertson, Special Assistant Attorney
General, Dept. of Corrections
Richard Meager, Chief Probation Officer
Carol Stratemeyer, Chief Juvenile Probation
Officer, Hamilton
John Larson, District Judge, Missoula**

Opponents: **Sandy Oitzinger, MT. Juvenile Probation Officers
Assoc.**

Joy Mariska, Director Court Services, Yellowstone
County
Glen Welch, Chief Probation Officer, Missoula
Bill Kennedy, Yellowstone County Commissioners
Gary Loshesky, Chief Juvenile Probation Officer,
Deer Lodge
Bob Peake, Juvenile Probation Officer, Havre
Lawrence Martin, Chief Juvenile Probation Officer,
Livingston

Opening Statement by Sponsor:

REP. JIM SHOCKLEY, HD 61, VICTOR, handed out pilot project information EXHIBIT(2). He stated this bill encourages proper use of funding for youth courts and how each district should live within their budgets. He talked about the pilot projects in counties and explained the budget system.

Proponents' Testimony:

Mike Ferriter, Administrator Community Corrections Division, Dept. of Corrections, handed out the pilot project report EXHIBIT(3) and explained the report in detail. He focused his testimony on the juvenile delinquency intervention program and felt this bill impacts how the system should work for the state.

{Tape 1; Side B}

Matt Robertson, Special Assistant Attorney General, Dept. of Corrections, drafted the legislation of this bill and mentioned changes within the bill and the need for a budgeting process for youth courts.

Richard Meagher, Chief Probation Officer, said his district was the first to use the pilot project. He talked about the how surplus funds were used over the years and felt the pilot project serves the system well. He explained youth incidences and how treatment could be afforded through this budgeting process.

Carol Stratemeyer, Chief Juvenile Probation Officer, Hamilton, handed in her testimony EXHIBIT(4).

John Larson, District Judge, Missoula, handed in a memo to be used for language changes in the bill EXHIBIT(5). He said the pilot projects offers ways to deal with complex youth and allows for good treatment methods. He explained the language changes relating to the sections of the Youth Court Act, 15-12 and 15-13.

Opponents' Testimony:

Sandy Oitzinger, MT. Juvenile Probation Officers Assoc., handed out opposition letters EXHIBIT(6). She felt the project to be immature in its nature of use. She stated funding issues should be resolved before a project like this can implemented. She pointed out this bill to be discretionary. She said there were problems involved with this project that would not be effective for all areas of Montana.

Joy Mariska, Director Court Services, Yellowstone County, talked about the troubled youth in communities. She felt this bill to be an expensive cost and the pilot project would be a burden in districts. She said this bill is dangerous and currently there is a struggle of budgeting, but if this bill was passed it would increase the struggle.

Glen Welch, Chief Probation Officer, Missoula, felt this bill to have many loose ends. He said this is a youth court placement budget and money cannot be spent if it is not there. He alleged where the funds should be located and the budgets should be mandated for youth courts. He thought there would be a lack of probation placements if this bill were to pass.

{Tape 2; Side A}

Bill Kennedy, Yellowstone County Commissioners, commented on developing local services and he mentioned funding problems that would detour youth into juvenile systems. He said this pilot program doesn't allocate funds properly.

Gary Loshesky, Chief Juvenile Probation Officer, Deer Lodge, said the problem in his counties deal with families adding to the per capita of juveniles. He felt the amount of money needed for his area would be far over spent. He said if the money was allocated or based on the population then his area would be on the losing end.

Bob Peake, Juvenile Probation Officer, Havre, mentioned allocations within districts and felt the Department of Corrections would have the final say with the transferring of responsibility. He explained types of offenses and pointed out the contingency fund involved with this pilot project. Placement of youth currently are full and there should be places for these youth to go. He asked the committee to consider the bill sponsored by **SEN. WATERMAN** that would assist in options for this type of project.

Lawrence Martin, Chief Probation Officer, Livingston, felt this project to be unrealistic in mandating participation for each district of the state. He talked about placement funding for programs and how this can be tracked in some areas. He believed additional staff would be needed and this bill would then be expensive to use.

Questions from Committee Members and Responses:

SEN. JERRY O'NEIL asked how long the Riverside Youth Correction Facility had been in use. **REP. SHOCKLEY** said Riverside is renaming the facility. **Mike Ferriter** explained when Riverside was established to serve female offenders as the counter part of Pine Hills.

SEN. O'NEIL asked if jurisdiction of the court would be terminated. **REP. SHOCKLEY** said it allows the jurisdiction to continue if the youth was put into a facility and then released.

SEN. O'NEIL asked if there were any times the court would want to terminate jurisdiction. **REP. SHOCKLEY** said this allows the court to keep it if needed.

SEN. O'NEIL asked if this language wouldn't preclude them from terminating it. **REP. SHOCKLEY** answered no.

SEN. GRIMES asked about language changes and if it made it subject to review by a cost containment panel. **REP. SHOCKLEY** said if the youth court exceeds its budget it can then appeal to the cost containment panel. He explained the justification and how the budgets would be provided. **Judge Larson** said this deals with any dispositional order, but there is an issue with any other disposition because these are troubled youth. He talked about child and family services offering support.

{Tape 2; Side B}

CHAIRMAN GROSFIELD said the amendment allows judges more authority and he asked if this allows a state entity involved. **Judge Larson** said it doesn't limit any agency with responsibility to youth.

CHAIRMAN GROSFIELD asked how the amendment interrelates with Section 4 of the bill. **Judge Larson** said if enough agencies with resources available would treat the youth then it could apply with that cap.

CHAIRMAN GROSFIELD asked about resources agencies would have available. **Judge Larson** said a hearing could be held for what resources are available and they know what they can work with.

SEN. RIC HOLDEN pointed out the program has been set up in Glendive. He asked if the district goes over their budget do they ask for more money. **Bill Kennedy** said if a court system went over their budget they would have to return mid-year to the board of county commissioners and ask for an allocation of dollars to settle the claims.

SEN. GRIMES asked if allocations were prorated and what the intentions of the determination of funds were. **Bill Kennedy** pointed to Section E of the pilot project report and explained what had been done in the past based on population of youth under age of 18 in each county.

SEN. GRIMES asked if anything dealing with the programs change in conjunction with regard to the committees operate and function. **Mike Ferriter** said the youth placement committee is already in statute. He said this bill changes the leadership of the committee and ownership.

SEN. HOLDEN referred to Section E in the reports and asked about the allocation of funds. **Mike Ferriter** said in previous fiscal years that is how the allocations were done.

SEN. HOLDEN asked if the funding formula would only provide half of what is being spent. **Mike Ferriter** said he hears plenty of times there is never enough money. He said this is the allotment they have and that is how they do the distribution.

SEN. HOLDEN referred to the list of areas and wondered how money could be allotted to these areas. **Mike Ferriter** said this is the distribution based on the population. He said the pilot concept generates lower cost services, develop and utilize lower cost services and use local services.

SEN. HOLDEN felt a youth problem wasn't a big issue in some of these smaller areas compared to other areas. He asked where the other half of the money to contain the program comes from. **Mike Ferriter** said Cascade County had been a participant in the pilot project over the past two years and they have overspent their budget. He added Cascade County has remarkably reduced it and have moved in the right direction.

SEN. HOLDEN said it looks like the pilot project was a failure in Cascade County. He felt an amendment was needed for any crisis

situations that may arise with this issue. **Mike Ferriter** said there is more current data and he pointed out nine of the eleven pilot projects were successful.

SEN. O'NEIL asked if the court was precluded from consulting with the cost containment panel. **REP. SHOCKLEY** didn't think the court would be.

SEN. O'NEIL asked who determines what funds would be allocated. **REP. SHOCKLEY** understood the Department of Corrections would decide what the budgets would be. **Joe Williams, Department of Corrections** said the allocation method is used for the at-risk youth statewide. He said each issue is reviewed and the legislature has the final say with allocations of juvenile placement funds.

SEN. O'NEIL asked if this would take into consideration more at-risk youth in certain areas. **Joe Williams** said it depends upon the survey for those areas.

{Tape 3; Side A}

SEN. O'NEIL asked if adjacent areas could work together and share the funding. **Mike Ferriter** said the district is usually made up of several counties. He said it would be to develop alternative programming.

SEN. O'NEIL asked about a case that could be very difficult. **Mike Ferriter** answered by saying the cost containment committee is used for difficult youths.

SEN. O'NEIL asked what branch of government this would be under. **Mike Ferriter** referred to page 22 of the bill and explained the cost containment panel and how they are appointed to the position.

CHAIRMAN GROSFIELD asked about the funding, from Section E of the report. **Mike Ferriter** said Section E represents the fiscal year allocation. He handed out a projected fiscal surplus and deficit information **EXHIBIT(7)**.

CHAIRMAN GROSFIELD asked about the pattern of funding. **Mike Ferriter** said the original bill had asked for a statutory appropriation of \$1.6 million. He said there may not be enough money, but they are trying to figure this issue out from this bill.

CHAIRMAN GROSFIELD wondered with the unpredictable numbers there should be smaller allocations given to the districts and allow the contingency fund to be bigger. **Mike Ferriter** agreed and said the lower districts would have less funds and less availability to develop a surplus.

SEN. HOLDEN referred to page 22 of the bill and pointed out the professionals on the cost containment panel who spend taxpayer money. **Mike Ferriter** said this group is placed in the bill because it is a group of peers.

SEN. HOLDEN said once and awhile this cost containment committee would say no and asked if this was correct. **Mike Ferriter** said he doesn't see it happen very often.

CHAIRMAN GROSFIELD asked where they \$400,000 came from for the fund. **Bob Peake** answered it came from the Department of Corrections from the allotted allocations.

CHAIRMAN GROSFIELD asked for more information to be given in regard to Section E of the report, **Mike Ferriter** said yes, he would.

CHAIRMAN GROSFIELD asked if Pine Hills has become a default for youth we can't afford. He also asked about **SEN. WATERMAN's** bill and how this bill would be affected by that one. **REP. SHOCKLEY** thought Pine Hills would be the default and the bill of **SEN. WATERMAN** is in the house judiciary.

Closing by Sponsor:

REP. JIM SHOCKLEY, HD 61, VICTOR, closed by stating there is never enough funding for areas needed. He suggested the youth courts should try the pilot programs. He said financial specialists for these pilot programs would remain in place and out of state placements are not favored within this bill. He felt this bill is an attempt to solve the problems involved with the youth system and by making budgets for these problems would assist the programs.

HEARING ON HJ 17

Sponsor: **REP. BRAD NEWMAN, HD 38, BUTTE**

Proponents: **Jim Oppedahl, Executive Director, Board of Crime Control**

SEN. STEVE DOHERTY said all he heard on testimony of this bill was the protection of the mother. He felt that was not what this bill was about if it was to go to a Rules Committee.

{Tape 2; Side A}

SEN. GRIMES said currently the bill sat in committee with the amendments on it. He had not seen an issue where the amendments were passed and then a question come up regarding if the title of the bill was within the bill or not.

Substitute Motion/Vote: **SEN. HALLIGAN** made a substitute motion that **HB 547 BE TABLED**. Substitute motion carried 5-4 with **Grimes, Grosfield, Holden, and O'Neil** voting no.

EXECUTIVE ACTION ON HB 146

Valencia Lane, Legislative Staffer, handed out amendments **HB014603.avl EXHIBIT(jus69a03)** and gave clarification to the changes added. An explanation of the amendments was also handed out **EXHIBIT(jus69a04)**.

SEN. DUANE GRIMES needed clarification. He wondered about turning it over to the pilot projects.

CHAIRMAN LORENTS GROSFIELD asked where **SB 386** was currently. **Sandy Otzinger, Executive Director, MT. Juvenile Probation Officers Association**, said **SB 386** passed the House Judiciary committee 15-3.

Joe Williams, Department of Corrections, agreed with **SEN. GRIMES** and added the appropriations process would like to make sure juvenile placement funding was set at a level that was within the current budget. He said **SB 386** would add approximately \$1.6 million a year to that appropriation.

SEN. GRIMES asked if the budget was being cut to be with the agency's program. He wondered if they needed to adopt **HB 146** because there would be no additional expenditures. **Joe Williams** answered yes. He said **HB 146** allocated the amount of money out to each judicial district. He said **SB 386** was a volunteer program for each judicial district.

SEN. MIKE HALLIGAN asked if the districts were going through their budgets having the counties take the costs. **Joe Williams** said **HB 146** stated the money would go back to the counties or department. He explained the decisions being made with placements.

SEN. HALLIGAN asked for clarification of youth placement committees and what the judge's authority would be. **Joe Williams** explained a placement committee recommendation process.

SEN. HALLIGAN asked where SB 386 was. **Sandy Otzinger** said the bill was not yet scheduled. **Mike Ferriter, Administrator, Community Corrections**, said he sat through executive action and explained discussion relevant to the bill.

SEN. HALLIGAN asked what if the judicial districts attempted to try it. **Mike Ferriter** said if both bills died the incentive for local jurisdictions to develop options would not be there.

SEN. HALLIGAN asked if the bigger communities lost, what incentive would be left. **Mike Ferriter** explained the districts overspending their budgets and the development that resulted.

SEN. JERRY O'NEIL asked if one of these directions would allow the youth court to make the placement. **Mike Ferriter** answered basically both bills kept intact the concept of youth placement committees.

SEN. HALLIGAN wanted to discuss this issue further. He thought HB 146 needed money in the budgets.

Motion: **SEN. HALLIGAN** moved that **AMENDMENTS HB014603.AVL TO HB 146 BE ADOPTED.**

Discussion:

SEN. GRIMES wondered if the amendments would conflict with the House.

Vote: Motion to adopt amendments HB014603.avl carried 6-0 with **SEN. STEVE DOHERTY, SEN. WALT McNUTT, AND SEN. RIC HOLDEN** excused.

Motion/Vote: **SEN. GRIMES** moved HB 146 BE CONCURRED IN AS AMENDED. Motion carried 6-0 with **SEN. STEVE DOHERTY, SEN. WALT McNUTT, AND SEN. RIC HOLDEN** excused. **SEN. HALLIGAN** would carry the bill on the Senate Floor.

EXECUTIVE ACTION ON HB 603

Motion: **SEN. GRIMES** moved that **AMENDMENTS HB060303.AVL TO HB 603 BE ADOPTED.EXHIBIT(jus69a05)**

Discussion:



FREE CONFERENCE COMMITTEE

on House Bill 146

Report No. 1, April 18, 2001

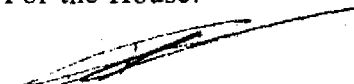
Page 1 of 3

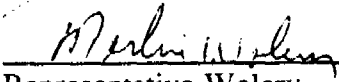
Mr. Speaker and Mr. President:

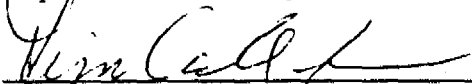
We, your Free Conference Committee on **House Bill 146**, met April 18, 2001, and considered:

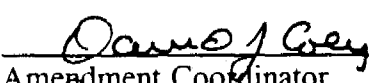
1. Senate Committee on Judiciary amendments to third reading copy, dated March 27, 2001:

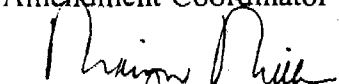
For the House:


Representative Shockley, Vice-Chair

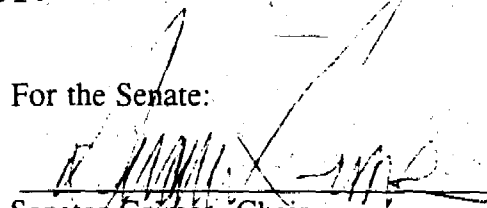

Representative Wolery


Representative Callahan

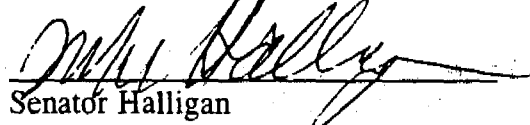

Amendment Coordinator


Chief Clerk of the House

For the Senate:


Senator Grimes, Chair


Senator McNutt


Senator Halligan

We recommend that **House Bill 146** (reference copy - salmon) be amended as follows:

1. Title, line 6 through line 8.

Following: "YOUTH;" on line 6

Strike: remainder of line 6 through "DELINQUENTS;" on line 8

ADOPT

AC HB 146-1

REJECT

871540FC.hdc

FCCR#1 HB 146

2. Title, line 9.

Strike: "41-5-121, 41-5-122, 41-5-123, 41-5-124,"

Following: "41-5-203,"

Strike: "41-5-205,"

Following: "41-5-206,"

Strike: "41-5-1512,"

3. Title, line 10.

Strike: "41-5-1513, 52-5-109,"

4. Page 2, line 27.

Following: "private"

Insert: ", physically secure"

5. Page 2, line 27 through line 28.

Following: "facility" on line 27

Strike: remainder of line 27 through "offenses" on line 28

Insert: "under contract with the department and operated solely
for the purpose of housing adjudicated delinquent youth"

6. Page 7, line 21 through page 10, line 22.

Strike: section 2 through section 5 in their entirety

Renumber: subsequent sections

7. Page 11, line 21 through page 12, line 6.

Strike: section 7 in its entirety

Renumber: subsequent sections

8. Page 14, line 21 through page 18, line 11.

Strike: section 9 through section 11 in their entirety

Renumber: subsequent sections

9. Page 18, line 21.

Following: "returned to"

Strike: "the"

Insert: "a"

Following: "facility"

Strike: "from which the youth was released"

10. Page 18, line 23.

Following: line 22

Insert: "(2) Pending the hearing on a violation and pending the
department's decision, a youth may not be detained except
when the youth's detention or care is required to protect
the person or property of the youth or of others or when the
youth may abscond or be removed from the community. The
department shall determine the place and manner of detention
pursuant to 41-5-348 and is responsible for the cost of the

detention. Procedures for taking a youth into custody and detention of a youth charged with violation of the youth's parole agreement are as provided in 41-5-321."

Renumber: subsequent subsections

11. Page 19, line 11.

Following: "a"

Strike: "recommendation to the department"

Insert: "decision"

12. Page 19, line 12.

Following: "this"

Strike: "recommendation"

Insert: "decision"

13. Page 19, line 23 through line 28.

Strike: subsection (7) in its entirety

Renumber: subsequent subsections

14. Page 19, line 29.

Following: "decision"

Strike: "is"

Following: "made"

Insert: "under subsection (6) is"

Following: "youth to"

Strike: "the"

Insert: "a"

15. Page 19, line 29 through line 30.

Following: "facility" on line 29

Strike: remainder of line 29 through "released" on line 30

16. Page 20, line 2 through line 4.

Strike: subsection (9) in its entirety

Insert: "(9) If a decision is made under subsection (6) to revoke the parole of a youth who was placed in and released from an alternative facility under 41-5-355 because of overcrowding in a state youth correctional facility, the youth may be placed in a state youth correctional facility if the state youth correctional facility is no longer overcrowded."

17. Page 20, line 6 through page 28, line 17.

Strike: section 13 through section 23 in their entirety

Renumber: subsequent sections